

REMARKS

The Examiner rejected claims 1, 6, 10 and 11 under 35 U.S.C. §102(e) as being anticipated by Urich. The Examiner rejected claims 2-5, 7-9 and 12 under 35 U.S.C. §103(a) as being unpatentable over Urich in view of Cimino. The applicant has canceled these claims, but preserves the right to continue prosecution of the claims in a continuation application.

The Examiner rejected claims 29, 32, 35, 38, 41, 44, 45, 48, 53, 56, 59 and 62 under 35 U.S.C. §103(a) as being unpatentable over Kellogg in view of Klopotek. Independent claims 35, 38, 41, 45, 56 and 59 all recite the generation of packets of pulses separated by pause periods so that a reciprocating tip does not denature tissue. As stated in the applicant's last response, Kellogg does not disclose a tip operated in a manner that does not denature tissue. Kellogg teaches to create enough heat to denature tissue (see column 3, lines 24-33), the exact opposite of the recited claims.

The applicant notes that the Examiner did not address the issue of denaturing tissue in the Office Action. The claims recite the generation of pulse packets that are separated by pause periods to prevent denaturing of tissue. Kellogg does not disclose or teach these limitations. As noted by the Examiner, Kellogg does not disclose a pause period between packets of pulses.

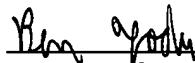
Additionally, Klopotek does not teach or suggest to modify Kellogg and create the recited claims. The Examiner states that Klopotek discloses packets separated by pause periods of no pulses. The claims recite packets of pulses that reciprocate a tip. The pulses disclosed in Klopotek are actually the by-product of ablating a cornea with a laser. The pulses shown in figures 3, 4B and 5B of Klopotek are not provided to a tip to reciprocate the same. The pulses shown in these figures are not driving signals to drive a device, but are

output signals from the eye to monitor the ablation depth of a cornea. One skilled in the art would not look to Klopotek to modify the driving signal of Kellogg to create packets of pulses separated by pause periods as recited in the claims. Klopotek does not teach to generate the recited pulse pattern to drive a reciprocating tip.

For all of the above reasons the applicant submits that the claims are in condition for allowance. Reconsideration of the rejections is requested. Allowance of claims 35-48 and 56-62 at an early date is solicited.

Respectfully submitted,
IRELL & MANELLA LLP

Dated: February 3, 2004



BEN J. YORKS
Reg. No. 33,609

840 Newport Center Drive, Suite 400
Newport Beach, CA 92660
949-760-0991

Certificate of Mailing
I hereby certify that this correspondence is being deposited with the
United States Postal Service as first class mail in an envelope addressed
to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-
1450, on February 4, 2004.

 2/4/04
Wendy Jones Date